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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,556	04/27/2006	Thomas Nissl	NISSL	2770

20151 7590 06/05/2007  
HENRY M FEIEREISEN, LLC  
350 FIFTH AVENUE  
SUITE 4714  
NEW YORK, NY 10118

EXAMINER
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DOWE, KATHERINE MARIE

ART UNIT	PAPER NUMBER
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3734

MAIL DATE	DELIVERY MODE
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06/05/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/595,556

Applicant(s)

NISSL, THOMAS

Examiner

Katherine M. Dowe

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2,4 and 6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,4 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. The following is a complete response to the amendment filed 4/30/2007.

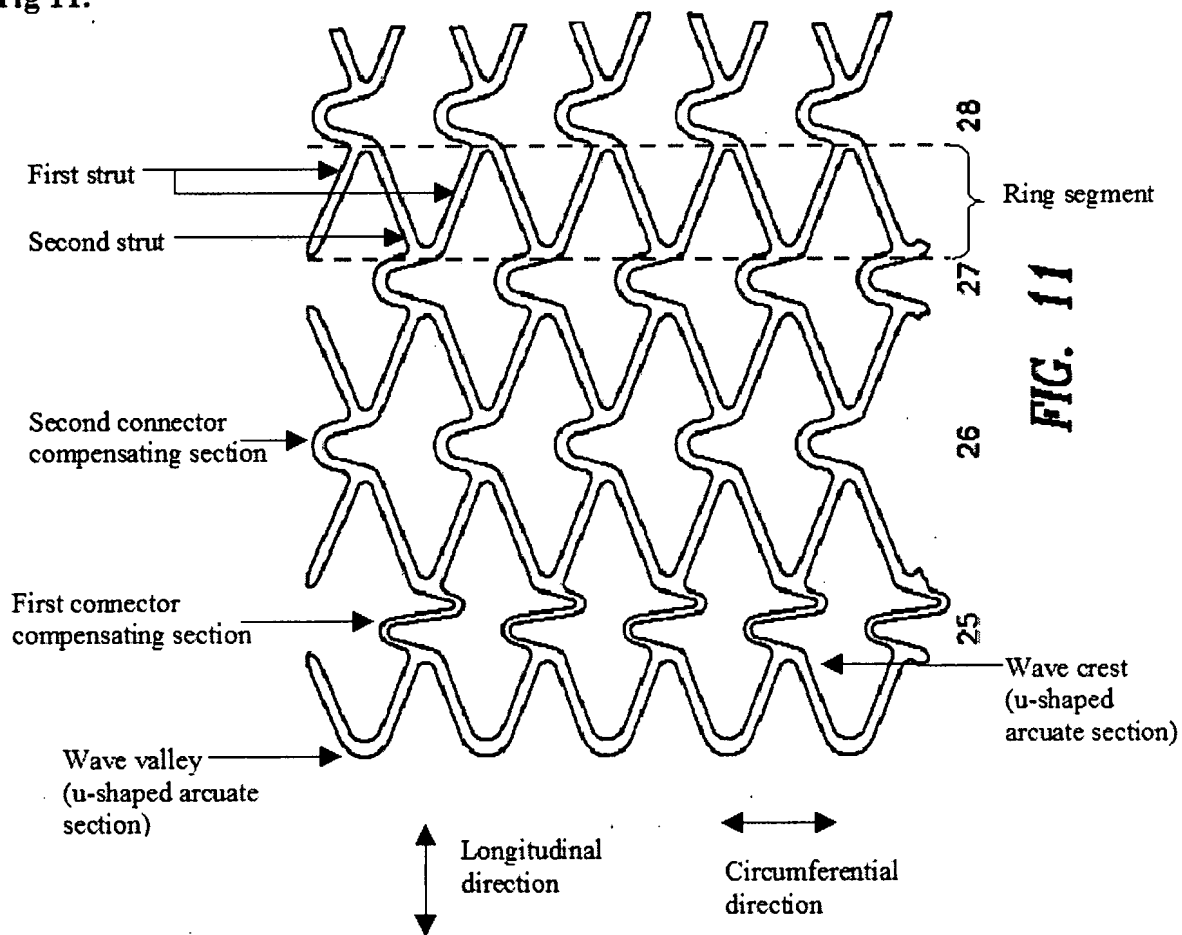
***Specification***

2. The Examiner acknowledges the amendments to the specification, thus the objection to the specification as set forth in the 1/30/2007 Office Action is withdrawn.

***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 6, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Richter (US 5,807,404). Regarding claim 6, Richter discloses an expandable stent comprising a tubular support frame defining a longitudinal axis (Fig 4) and including a plurality of ring segments (col 2, lines 52-57), as shown below in Fig 11, arranged in succession in a direction of the longitudinal axis and formed by struts which are joined continuously in a wavelike manner in a circumferential direction of the support frame. The struts are curved arcuately and merge together to form U-shaped arcuate sections. First and second connectors link adjacent ring segments. The connectors alternate in the circumferential direction and in the direction of the longitudinal axis and are formed with a U-shaped compensating sections pointed in the same circumferential direction. The first connectors are longer in length than the second connectors and curved in the same circumferential direction as the struts (see Fig 11 below).

**Fig 11:**



Regarding claim 2, Richter discloses the ring segments define wave crests and wave valleys, which confront one another (see Fig 11 below).

Regarding claim 4, Richter discloses the connectors arranged successively in the longitudinal axis are linked to the U-shaped arcuate sections of the struts by connections, where the first and second connections confront one another (see Fig 11 below).

***Response to Arguments***

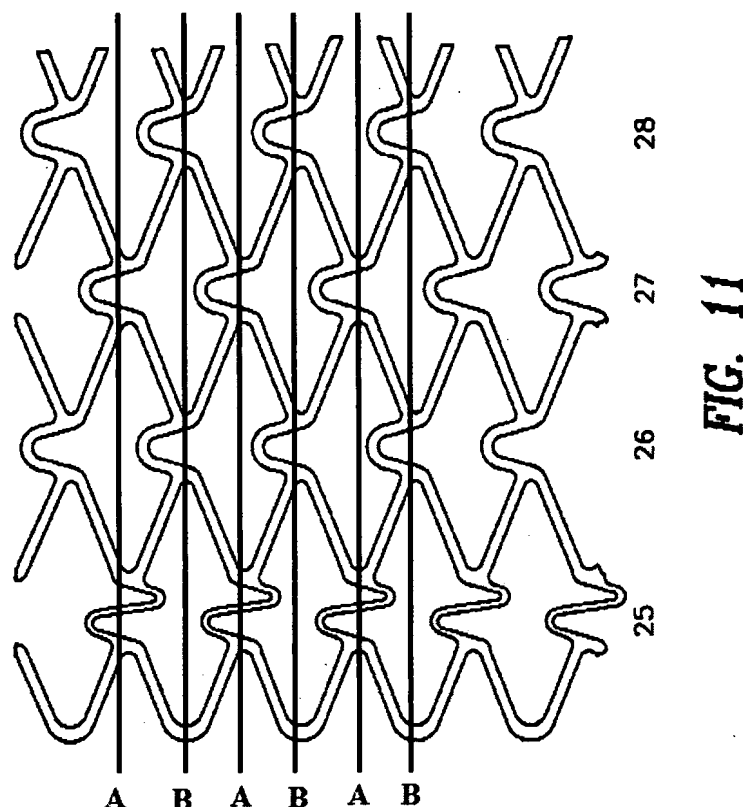
5. Applicant's arguments filed 4/30/07 have been fully considered but they are not persuasive.

6. Applicant argues Richter discloses struts that have a straight configuration. The Examiner respectfully traverses the Applicant's remarks. Richter discloses the struts merge into one another via U-shaped arcuate sections, as seen in Fig 11 above. Thus, the struts are slightly curved at the U-shaped section where the first and second struts are joined.

7. Applicant argues the different types of connectors disclosed by Richter have a same length and do not alternate in the circumferential direction as well as in the direction of the longitudinal axis. The Examiner respectfully traverses the Applicant's remarks. Regarding the length of the connectors, it is clear from Fig 11 that the first connector, as defined in the Figure above, has a longer length than the second connector because it must curve to the left, cross over the center, and curve to the right covering the same circumferential distance on the left and right that the second connector only travels on the left. Thus, the first connector effectively covers double the circumferential distance and the "length" may be interpreted as the total path of the connector.

Regarding the arrangement of the connectors, it is clear from Fig 11 above that the first and second connectors alternate in the longitudinal direction since the first connectors are found in the bottom row and the second connectors are found in the

next row up from the bottom. Furthermore, the connectors alternate circumferentially as shown below in a second marked up view of Fig 11:



In the above figure, A represents the first circumferential point and B represents a second circumferential point. Focusing on the bottom two rows, the connector at point A is the first connector while the connector at point B is the second connector, which continues to alternate at successive circumferential positions.

8. Applicant argues Richter discloses the legs of the connectors are straight. The Examiner respectfully traverses the Applicant's remarks. Richter discloses the legs of the connectors merge into one another via U-shaped compensating sections, as seen in Fig 11. Thus, the legs are slightly curved at the U-shaped section where the first and second legs are joined.

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9. Applicant argues claims 2 and 4 are allowable because they are dependent upon and include all the limitations of claim 6. Please see above rejection.

**Conclusion**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine M. Dowe whose telephone number is (571) 272-3201. The examiner can normally be reached on M-F 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Hayes can be reached on (571) 272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Katherine Dowe  
May 30, 2007



MICHAEL J. HAYES  
SUPERVISORY PATENT EXAMINER